IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11137 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SUMRA IKBAL HASAM KHAFI

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR SAMIR DAVE AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/02/2001

ORAL JUDGEMENT

#. Heard learned counsel for the parties.

#. The petitioner was detained as a dangerous person under the order of the District Magistrate, Jamnagar

dated 3.7.2000 and he is presently at Ahmedabad Central Prison, Ahmedabad.

#. Challenging this order manifold contentions are raised by the learned counsel for the petitioner but as this petition deserves to be allowed only on one ground it is not necessary to refer all those contentions, discuss and decide.

#. It is not in dispute that none of the respondents has filed reply to the Special Civil Application.

#. In para 12 of the Special Civil Application the petitioner raised contention that last criminal complaint was registered against him on 28.1.2000 and he was released on bail on 4.2.2000. The order of detention has been passed on 3.7.2000 and for this inordinate delay no explanation whatsoever has been furnished by the respondents either in the grounds of detention or otherwise by filing reply to the Special Civil Application. If we go by the date on which the petitioner has been released on bail by the trial court there is delay of about 5 months in passing of the order. It is true that delay itself may not be a ground for quashing the detention order but in case where the challenge to the order has been made by the detenu on this ground, the duty cast upon the detaining authority to explain delay by filing reply. Reply affidavit has not been filed and as said earlier in the grounds of detention also this delay has not been explained and on this ground the continued detention of the petitioner becomes illegal.

As a result of the aforesaid discussion, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 3.7.2000 is quashed and set aside. The petitioner Sumra Ikbal Hasam Khafi, the detenu, at present in Ahmedabad Central Prison, Ahmedabad, be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. As the respondents fairly conceded the position, no order as to costs.

(S.K.Keshote, J.)

*Pvv